## **REGULATION 5**

## OPERATION OF GAMING ESTABLISHMENTS

## PROPOSED AMENDMENTS TO REGULATION 5.240

<u>PURPOSE</u>: In accordance with NRS 463.145, NRS 463.150, and S.B. 38 passed during the 2015 Legislative Session: to amend regulation 5.240 to remove references to and licensing requirements for marketing affiliates; and to take such additional action as may be necessary and proper to effectuate these stated purposes.

(Draft Date: March 3, 2016)

[Deleted]/Added Language

## 5.240 Service Providers.

- 1. No Change.
- 2. Definitions.
- (a) "Chairman" means the chairman of the board or his designee.
- (b) "Assumes responsibility" means to acquire control over, or ownership of, a person, or to acquire the authority, by contract or otherwise, to direct a person to make corrections, modifications, or changes to any aspect of the service or services provided by the person, including corrections, modifications or changes to software or hardware.
- (c) "Geolocation service provider" means a person who identifies, or provides information for the identification of, the geographic location of individuals to a licensed operator of interactive gaming, licensed interactive gaming service provider, or licensed manufacturer of interactive gaming systems for purposes of interactive gaming. This definition does not include:
- (i) A person who otherwise generally provides such information for purposes other than interactive gaming;
- (ii) A licensed operator of interactive gaming who obtains such information for its own use;
- (iii) A licensed interactive gaming service provider [other than a marketing affiliate,] or licensed manufacturer of interactive gaming systems who provides such information; or

- (iv) A person who provides such information to a licensed operator of interactive gaming, licensed interactive gaming service provider, or licensed manufacturer of interactive gaming systems so long as the licensed operator of interactive gaming, licensed interactive gaming service provider, or licensed manufacturer of interactive gaming systems assumes responsibility for the information provided.
- (d) "Information technology service provider" means a person who, on behalf of another licensee, provides management, support, security, or disaster recovery services for board regulated hardware or software.
- (e) ["Marketing affiliate" is a type of interactive gaming service provider and is:
- (i) A person who provides information regarding persons to an operator of interactive gaming via a database or customer list; or
- (ii) A person who provides the trademarks, trade names, service marks or similar intellectual property under which an operator of interactive gaming identifies its interactive gaming system to patrons.
- (f)] "Patron identification service provider" means a person who verifies, or provides information for the verification of, the identification of individuals to a licensed operator of interactive gaming, licensed interactive gaming service provider, or licensed manufacturer of interactive gaming systems for purposes of interactive gaming. This definition does not include:
- (i) A person who otherwise generally provides such information for purposes other than interactive gaming;
- (ii) A licensed operator of interactive gaming who obtains such information for its own use;
- (iii) A licensed interactive gaming service provider [other than a marketing affiliate,] or licensed manufacturer of interactive gaming systems who provides such information; or
- (iv) A person who provides such information to a licensed operator of interactive gaming, licensed interactive gaming service provider, or licensed manufacturer of interactive gaming systems so long as the licensed operator of interactive gaming, licensed interactive gaming service provider, or licensed manufacturer of interactive gaming systems assumes responsibility for the information provided.
- [(g)] (f) "Payment processing service provider" means a person who directly facilitates the depositing of funds into or withdrawing of funds from interactive gaming accounts for a licensed operator of interactive gaming or licensed interactive gaming service provider. This definition does not include:

- (i) A licensed operator of interactive gaming who provides such services for its patrons;
- (ii) A licensed interactive gaming service provider [other than a marketing affiliate] who provides such services; or
- (iii) A person who provides such services to a licensed operator of interactive gaming or licensed interactive gaming service provider, so long as the licensed operator of interactive gaming or licensed interactive gaming service provider assumes responsibility for the service provided.

[(h)] (g) "Service provider" means a person who:

- (i) Acts on behalf of another licensed person who conducts nonrestricted gaming operations, and who assists, manages, administers or controls wagers or games, or maintains or operates the software or hardware of games on behalf of such a licensed person, and is authorized to share in the revenue from games without being licensed to conduct gaming at an establishment;
- (ii) Is an interactive gaming service provider as defined pursuant to Regulation 5A.020;
  - (iii) Is a cash access and wagering instrument service provider;
  - (iv) Is an information technology service provider;
- (v) Acts on behalf of another licensed person who conducts nonrestricted gaming operations where the services provided include those functions that fall within the definition of "gaming employee" pursuant to NRS 463.0157;
  - (vi) Is a geolocation service provider;
  - (vii) Is a patron identification service provider; or
  - (viii) Is a payment processing service provider.
  - → A service provider granted a license by the commission is a licensee.
- 3. Service provider investigation classifications. The level of investigation conducted by the board of a service provider applicant is classified based on the significance of the activities to be provided on behalf of a licensee and regulatory risk of the service provider. The investigation classifications are as follows:
  - (a) The following service providers are subject to a class 1 investigation:
- (i) Any interactive gaming service provider [other than a marketing affiliate];
- (ii) Any service provider who receives payments based on earnings or profits from any gambling game; or
- (iii) Any other applicant for a service provider license who, upon a determination of the chairman, should be subject to a class 1 investigation.

Such determination shall be based on the policy set forth in NRS 463.0129 and this subsection.

- (b) Any service provider other than those identified in subsection 3(a) [or 3(c)] of this section, [are] is subject to a class 2 investigation.
- [(c) Any service provider who is acting on behalf of an operator of interactive gaming as a marketing affiliate is subject to a class 3 investigation.]
  - 4. No Change.
  - 5. No Change.
  - 6. No Change.
  - 7. Licensing.
- (a) Applications for a service provider license that is subject to a class 1 investigation shall be made, processed, and determined in the same manner as applications for nonrestricted gaming licenses, using such forms as the chairman may require or approve.
- (b) Applications for a service provider license that is subject to a class 2 investigation shall be made, processed, and determined using such forms as the chairman may require or approve and must be accompanied and supplemented by such documents and information as may be specified or required. Such service providers shall be subject to an investigation and review by the board as deemed necessary by the chairman based on the regulatory risk and the intended activities of the service provider but that is at a level less than a class 1 investigation [and more than a class 3 investigation].
- (c) [Applications for a service provider license that is subject to a class 3 investigation shall be made, processed, and determined using such forms as the chairman may require or approve and must be accompanied and supplemented by such documents and information as may be specified or required. Such service providers shall be subject to a cursory investigation and review conducted by the board. In addition to any other forms required by the chairman, applications for a service provider license that is subject to a class 3 investigation shall include the following:
- (i) Completion of form 1 for an application for an interactive gaming service provider license, to be activated only in accordance with the provisions of this section;
- (ii) An affirmative statement that the applicant submits to the jurisdiction of the board; and
- (iii) An affirmative statement that the applicant consents to the authority of the chairman to activate the applicant's application for an interactive gaming service provider license in accordance with the provisions of this

section and that any such activation shall require payment of all application and investigative fees related thereto in accordance with Regulation 4.070;

- (iv) A waiver of all rights available under the provisions of NRS 463.310 through NRS 463.318 while a probationary licensee.
- (d) Except as otherwise provided in this section, a marketing affiliate granted a service provider license by the commission is a probationary licensee.
- (e)] Before receiving a license, a service provider must meet the qualifications for licensing pursuant to NRS 463.170.
- [(f)] (d) Nothing in this Regulation shall be construed to limit or prevent the board from conducting such supplementary or expanded investigations of any applicant for a service provider license as determined necessary by the chairman or his designee. The board may require an applicant for a service provider license to pay any supplementary investigative fees and costs in accordance with Regulation 4.070.
- [(g) In order to further the policies set forth in NRS 463.0129, the chairman may, at any time after a service provider probationary license has been granted, do one of the following:
- (i) Activate such service provider's application for an interactive gaming service provider license. Upon the commission acting on the application for an interactive gaming service provider license, the service provider probationary license shall be terminated.
- (ii) Terminate the probationary license with 30 days written notice to the licensee at the address on file with the board.
- →A termination of a probationary license shall not be construed as a revocation of the license.
- (h) A service provider probationary licensee shall have no right to review the termination of its license. Nothing in this section shall be construed to prohibit the board from initiating disciplinary proceedings, and the commission from imposing discipline, to limit, condition, suspend, revoke or fine a service provider probationary licensee in accordance with the provisions of NRS 463.310 et. seq.]
  - 8. No Change.
  - 9. No Change.
  - 10. No Change.
  - 11. No Change.
  - 12. No Change.
  - 13. No Change.
  - 14. No Change.
  - 15. No Change.